

STATE OF MICHIGAN
Department of
Health & Human
Services

Memorandum

Michigan Domestic &
Sexual Violence Prevention &
Treatment Board
235 S. Grand Avenue, Suite 1108
Lansing, MI 48933
www.michigan.gov/domesticviolence
Phone: (517) 335-6388
Fax: (517) 241-8903



TO: Members, House Judiciary Committee
FROM: DC Debi Cain, Executive Director, Michigan Domestic & Sexual Violence
Prevention & Treatment Board
DATE: May 2, 2017
SUBJECT: HB 4298 (mandate video recording of child interviews in child
protection proceedings)

The Michigan Domestic and Sexual Violence Prevention and Treatment Board (MDSVPTB) would like to express its opposition to HB 4298, which would require electronic video recording of interviews with children in accredited or accreditable child assessment centers that are conducted in child protection cases. Although the Board acknowledges that video recording of children's statements in child protection cases is a best practice, Michigan's current Forensic Interviewing Protocol does not require video recording in all cases.¹ The MDSVPTB supports the approach taken in the Protocol; while video recording is a best practice in many cases, there are compelling reasons why video recording of child interviews should not be required in all cases.

Mandated video recording does not account for circumstances where recording is inappropriate or counter-productive, for example:

- Recording an interview can inhibit some children from disclosing accurate, complete information to an interviewer, or even cause a child to refuse to answer questions.
- If the abuse of a child involved the video recording of sexual or other intimate or embarrassing acts, a video recorded interview may cause further trauma to the child.
- Some children may be disturbed to know that a recording of their statement exists and is available to the accused perpetrator.

A mandate to video record child interviews also does not account for the fact that children – particularly those who have suffered serious trauma – are not always able to give a complete, coherent description of the abuse they have endured in a formal interview session. Many children disclose facts about abuse incrementally over time, and/or during interactions with helping professionals that are not being recorded. In cases where evidence of children's statements is both recorded and not, fact finders may inappropriately give greater weight to statements that are recorded than to statements that are not. Moreover, if a child testifies in a court proceeding, an earlier recorded statement may be used to impeach or intimidate the child if the recording was made at a time when the child was suffering from the immediate effects of trauma and contains gaps or inconsistencies with the child's statements in court.

¹ Governor's Task Force on Child Abuse and Neglect, and Department of Human Services, *Forensic Interviewing Protocol*, p. 3 (Third Edition).

Mandated video recording may also be problematic in emergency situations where video recording is impracticable, or in situations where the recording equipment is lacking or non-functional. If a recording that is mandated by statute cannot be produced, questions arise as to whether fact finders will be allowed to consider evidence of unrecorded statements, and if so, whether they will view these statements as credible.

Thank you for your attention to the Board's concerns. Please note that the Board's position and rationale is solely that of the Board and does not represent the views of the Michigan Department of Health and Human Services or any other body. Although the Board is administratively housed within MDHHS, it is an independent, legislatively-created body with members appointed by the Governor. (See MCL 400.1502.)